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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/783,328	02/15/2001	Kazuhiko Nobe	Q63117	3179

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EXAMINER

JONES, SCOTT E

ART UNIT

PAPER NUMBER

3713

DATE MAILED: 07/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/783,328

Applicant(s)

NOBE ET AL.

Examiner

Scott E. Jones

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This office action is in response to the amendment submitted under 37 C.F.R. § 1.116 on June 7, 2002 in which Applicant amends claim 7, amends the abstract, and submits an additional information disclosure statement.
2. The finality of the last Office action is withdrawn.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claims 1-13 are not written in clear, precise, and unambiguous language such that one possessing ordinary skill in the art could ascertain the scope of the claims. For example:

In claim 1, the claim limitation, "operation timing data storage means for storing operating timing data indicative of timings at which the player should operate the controller in accordance with the game music reproduced based on the recorded content read from the predetermined commercially available music CD" is unclear. The player should operate the controller in accordance with the game music to perform what function?

Claims 5, 8, 10, 12 and 13 lack a phrase such as, "wherein the game distribution device comprises:" Therefore, the scope of the claim cannot be determined.

Claim 9 recites the limitation "music data judgement means" in line 6, but uses inconsistent language "a judgement" in line 15 to refer to the music data judgement means recited in line 6.

In Claim 10, the language, "to function as" in line 6 renders the claim indefinite as it is not clear what the information storage medium actually does.

In Claim 13, the language, "the game program for" in line 8 renders the claim indefinite as it is not clear what the game program actually executes or what function it performs.

6. The items noted hereinabove are only several examples of deficiencies with the claims. Applicant should review the claims and correct all deficiencies.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Applicant's Background of the Invention. On page 2, lines 1-10, applicant states, "In order to realize such a music-oriented game in a home-use game machine, generally, game music data and corresponding operation timing data are stored in a single CD-ROM, together with a game program, and the home-use game machine reads the game music data and corresponding operation timing data from the CD-ROM. The home-use game machine then conducts reproduction of game music and displaying of guidance based on the data read."

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8. Claims 1-13 are rejected under 35 U.S.C. 102(a) as being anticipated by Sagawa et al.

Sagawa et al. (E.P. 903,169 A2) discloses a music action game machine comprising a main body; an operation input device disposed on a front side of the main body so as to be adjacent to hands of a player facing the front side of the main body, the operation input device having a plurality of operation members; a storage device for storing data of musical composition and data of a performance procedure associated with the musical composition; a music play device for playing the musical composition based on the data stored in the storage device; and operation instructing device for giving the player a visual instruction to operate the operation members in accordance with progress of a play of the musical composition based on the data stored in the storage device; an effect producing device for producing a performance effect in response to a performance operation performed by the player to each of the operation members; and estimation device for estimating the performance operation of the player based on a relationship between the performance procedure defined by the data stored in the storage device and the performance operation of the player; and an estimation informing device for informing the player of an estimation result determined by the estimation device. Therefore, the player can enjoy the simulation of the performance of the music through the operation of the operation members (Abstract).

Additionally, the storage device of the instant invention could be a magnetic storage device such as a hard disk drive or a floppy disk, an optical or a magneto-optical storage device such as a CD-ROM, a semiconductor storage device such as a RAM or a ROM, or the other various types of storage devices (Column 9, lines 37-42). Each of these storage devices could also be accessed by a computer or game device via a network such as the Internet.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sasaki et al. '930 discloses an information recording medium and information reproducing apparatus for use therewith for putting information into a system easily and quickly.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott E. Jones whose telephone number is (703) 308-7133. The examiner can normally be reached on Monday - Friday, 8:30 A.M. - 5:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on (703) 308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

Scott E. Jones
Examiner
Art Unit 3713

SEJ

sej
June 25, 2002

V. Martin-Wallace
VALENCIA MARTIN-WALLACE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700